

## REMARKS/ARGUMENTS

Claims 1-5 and 9 remain pending herein.

Figure 2 was objected to. The December 19, 2005 Office Action includes a statement that Figure 2 “. . . does not have sufficiently descriptive labels.” In response, attached hereto is a replacement Figure 2 which includes descriptive labels. It is respectfully requested that the U.S. PTO reconsider and withdraw this objection.

The drawings were objected to because Figure 5a includes reference character 90, which is not mentioned in the original specification. The specification has been amended as set forth above to correct an inadvertent error. The correction of this error results in the inclusion of reference number 90 in the specification. It is respectfully requested that the U.S. PTO reconsider and withdraw this objection.

In section “5” of the December 19, 2005 Office Action, claims 1-3 and 9 were objected to. The amendments to the claims set forth above address the bases for these objections. Accordingly, it is respectfully requested that the U.S. PTO reconsider and withdraw this objection.

Claims 1-9 were rejected under 35 U.S.C. §112, second paragraph.

The amendments to the claims set forth above also address the concerns set forth in this rejection. In particular, claim 1 has been amended to refer to *generating a jitter parameter for each packet of said sequence of stored packets*; claims 2-5 have been amended to refer to *generating a plurality of consecutive positive jitter parameters, generating a plurality of maximum values and generating a plurality of variance values*, as appropriate; and claims 6-8 have been canceled.

It is respectfully requested that the U.S. PTO reconsider and withdraw this rejection.

Claims 7 and 8 were rejected under 35 U.S.C. §101. As noted above, claims 7 and 8 have been canceled, rendering this rejection moot. It is respectfully requested that the U.S. PTO reconsider and withdraw this rejection.

Claims 1, 2 and 7-9 were rejected under 35 U.S.C. §103(a) over Cisco Systems, “Evaluate Network Performance with Cisco IOS® Service Assurance Agent” (“Cisco”) in view of U.S. Patent Application Publication No. 2003/0086425 (Bearden ‘425).

The Office Action contains an assertion that the SumOfPositivesSD disclosed in Cisco anticipates the claimed consecutive positive jitter perimeter. Claims 1 and 9 have been amended as set forth above to clarify the claimed parameter and to recite that *the consecutive positive jitter parameter defines the number of immediately preceding stored packets for which a polarity of the jitter parameter is positive*. Cisco discloses the use of a jitter parameter and discloses summing jitter parameters and determining maximum positive and negative jitter parameters. Cisco does not disclose or suggest generation of a consecutive positive jitter perimeter.

Bearden ‘425 is relied on in the Office Action for alleged disclosure of means for generating an estimated mean opinion score in dependence upon a set of parameters. Any such disclosure in Bearden ‘425 would not overcome the shortcomings of Cisco as attempted to be applied against claim 1, from which claim 2 depends, and as attempted to be applied against claim 9. As noted above, claims 7 and 8 have been canceled.

Accordingly, it is respectfully requested that the U.S. PTO reconsider and withdraw this rejection.

Claims 3-6 were rejected under 35 U.S.C. §103(a) over Cisco in view of Bearden ‘425, further in view of U.S. Patent Application Publication No. 2003/0018450 (Carley ‘450).

Carley ‘450 is relied upon in the Office Action for alleged disclosure of determining a variance value of a measured parameter and a subsequent average of the maximum and/or variance value. Any such disclosure in Carley ‘450 would not overcome the shortcomings of Cisco and Bearden ‘425 as attempted to be applied against claim 1, from which claims 3-5 each ultimately depend. As noted above, claim

6 has been canceled. Accordingly, it is respectfully requested that the U.S. PTO reconsider and withdraw this rejection.

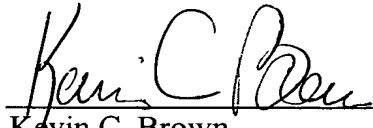
In view of the above, claims 1-5 and 9 are in condition for allowance.

If the Examiner believes that contact with Applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicants' attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

March 20, 2006  
Date

Respectfully submitted,

  
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**Amendments to the Drawings:**

An **Appendix** including amended drawing Figure 2 is attached following page 11 of this paper.

## **APPENDIX**